

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 ***

4
5 JOHN KARLOWITSCH,
6 Plaintiff,

7 vs.

8 EVERGREEN RECREATIONAL VEHICLES,
9 LLC, *et al.*,

10 Defendants.

2:14-cv-02159-MMD-VCF

ORDER AND REPORT AND
RECOMMENDATION

11
12 Before the Court is Michael M. Edwards, Esq.'s motion for leave to withdraw as counsel for
13 Defendant Evergreen Recreational Vehicles, LLC ("Evergreen") or in the alternative to continue trial
14 (ECF No. 65). Mr. Edwards states that Defendant Evergreen had ceased its operations and would
15 commence liquidation of its assets to satisfy the claims of its secured creditors. Evergreen would no
16 longer participate in the defense of any ongoing litigation. Evergreen has ceased communications with
17 the counsel. *Id* at 2. Evergreen's motion to dismiss was filed on April 5, 2017. (ECF No. 66). Calendar
18 call is scheduled for May 1, 2017 and Trial is scheduled for May 9, 2017. (ECF No. 61).

19
20 A hearing on the instant motion was held on April 18, 2017. The Court heard representations from
21 the parties.

22 **DISCUSSION**

23 Under Local Rule IA 11-6(e), "[e]xcept for good cause shown, no withdrawal or substitution will
24 be approved if it will result in delay of discovery, the trial, or any hearing in the case." Nevada Rule of
25 Professional Conduct 1.16(b)(5) provides that a lawyer may withdraw if the "client fails substantially to

1 fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning
2 that the lawyer will withdraw unless the obligation is fulfilled." Although trial is scheduled for May 9,
3 2017, Mr. Edwards has given good cause to withdraw as counsel of record for Evergreen. Evergreen has
4 ceased operations. In John Deeds' letter to Mr. Edwards dated April 13, 2017, Deeds states, "[a]t present,
5 Evergreen RV has no assets, has no employees, and there are no current officers or managers authorized
6 to act on behalf of the entity." (ECF No. 72-1 at 19). Here, the Court recognizes Mr. Edwards' burden to
7 represent a client that has ceased communications with him and has ceased complete operation.

8 28 U.S.C. § 1654 provides that "[i]n all courts of the United States the parties may plead and
9 conduct their own cases personally." See *C.E. Pope Equity Trust v. United States*, 818 F.2d 696, 697 (9th
10 Cir. 1987). Although individuals may represent themselves pursuant to this statute, a corporation is not
11 permitted to appear in Federal Court unless it is represented by counsel. *U.S. v. High Country*
12 *Broadcasting Co., Inc.*, 3 F.3d 1244, 1245 (9th Cir. 1993). An individual also does not have the right to
13 appear on behalf of anyone other than himself. *Pope*, 818 F.2d at 697. The Court thus advises Evergreen
14 that it may not proceed *pro se*, because limited liability companies must be represented by counsel.

15 Accordingly, and for Good Cause Shown,

16 IT IS HEREBY ORDERED that the Michael M. Edwards, Esq.'s motion for leave to withdraw as
17 counsel for Defendant Evergreen Recreational Vehicles, LLC ("Evergreen") (ECF No. 65) is GRANTED.

18 IT IS FURTHER ORDERED that the deadline to file a response to the motion to dismiss is stayed,
19 pending further order of the Court.

20 IT IS FURTHER ORDERED that Evergreen must retain counsel by April 28, 2017. If no new
21 counsel for Evergreen has entered an appearance by April 28, 2017, IT IS RECOMMENDED that
22 Evergreen's motion to dismiss (ECF No. 66) is STRICKEN and default is entered against Evergreen.

23 The Clerk of Court is directed to terminate Michael Edwards, Esq. and Nicholas L. Hamilton, Esq.
24 and the law firm of Messner Reeves LLP as counsel of record for Evergreen.

25 The Clerk of Court is directed to serve a copy of this Order on Evergreen at the following address:

1 Michael Schoeffler
2 Registered Agent for Evergreen Recreational Vehicles, LLC
3 10758 CR 2
4 Middlebury, Indiana 46540

5 DATED this 18th day of April, 2017.



6 CAM FERENBACH
7 UNITED STATES MAGISTRATE JUDGE
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25